UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HODGES RICHARDSON,

Plaintiff,

-against-

THE CITY OF NEW YORK, POLICE OFFICER PETER LUMIS (BADGE NO. 05713), POLICE OFFICER BRIAN LITTLE (SHIELD NO. 7155), POLICE OFFICER JOHN DOE 1-3.

Defendants.

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COMPLAINT

Jury Trial Demanded

10-CV-3430 (SHS)

PRELIMINARY STATEMENT

1. This is a civil rights action, alleging that the City of New York and several New York City Police Officers violated plaintiff's rights under 42 U.S.C. § 1983, the Fourth and Six Amendments to the United States Constitution. Specifically, plaintiff alleges that, on October 10, 2009, defendants falsely arrested him, used excessive force on him, assaulted and battered him, and made false allegations about him to the New York County District Attorney's Office. Plaintiff seeks compensatory and punitive damages, attorney's fees and costs, and such other and further relief as the court deems just and proper.

JURISDICTION & VENUE

2. This action is brought pursuant to 42 U.S.C. § 1983 and the Fourth and Sixth Amendments to the United States Constitution. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331 and 1343.

3. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1391 (b) and (c).

4. Plaintiff invokes the supplemental jurisdiction of this Court pursuant to 28 U.S.C. § 1367 to hear and decide his state law claims of false arrest, assault, battery, and negligent hiring, training, supervision, and retention. With respect to these state law claims, a notice of claim was duly filed on the City of New York within 90 days of the acts at issue, more than 30 days have elapsed since such filing, and the City has refused to settle plaintiff's state law claims.

PARTIES

5. Plaintiff is a resident of the State of New York who lives in Manhattan.

6. The City of New York is a municipal corporation organized under the laws of the State of New York.

7. Police Officer Peter Lumis. John Doe 1-3 and Brian Little are members of the New York City Police Department who were acting under color of state law and in their capacities as City law enforcement officers at all relevant times. Lumis, Little and the Does are liable for directly participating in the unlawful acts described herein and for failing to intervene to protect plaintiff from unconstitutional conduct. The defendants are sued in their individual and official capacities.

STATEMENT OF FACTS

8. Plaintiff is a sophomore at John Jay College studying criminal justice. This was his first and only arrest.

9. On October 10, 2009, at approximately 9:57 p.m. plaintiff was coming out of the subway station with his uncle, David Williams. Plaintiff, after waving to a friend in a Dunkin Donuts, was confronted with a drawn gun pointing at him. Frightened, plaintiff ran.

10. After running a few blocks, plaintiff noticed that police officers were following him. relieved that he was safe, plaintiff stopped running.

11. Once plaintiff stopped, one of the officers, possibly Brian Little, struck plaintiff in the back of plaintiff's head with with a closed fist. Once on the ground, plaintiff was struck twice more with a closed fist. Plaintiff was then placed in excessively tight handcuffs.

12. Officers then took plaintiff to the Seventh Precinct. Plaintiff, in pain and woozy from his assault, asked to be taken to the hospital. This request was refused..

13. Plaintiff's designated "arresting officer" was Police Officer Peter Lumis.

14. While plaintiff was incarcerated in the precinct, Lumis and Little, pursuant to a conspiracy with other officers involved in plaintiff's arrest, prepared police reports which falsely stated that plaintiff had committed Obstruction of Governmental Administration, resisting Arrest and Disorderly Conduct.

15. Early the next morning, plaintiff was transported to New York Central Booking. While plaintiff was confined in Manhattan Central Booking, Lumis, pursuant to a conspiracy with other officers involved in plaintiff's arrest, misrepresented to the New York County District Attorney's Office that plaintiff had committed the crime of Obstruction of Governmental Administration, Resisting Arrest and Disorderly Conduct.

16. On October 11, 2009, plaintiff was arraigned and released on his own recognizance.

17. After numerous court appearances, plaintiff received an ACD.

18. Plaintiff suffered damage as a result of defendants' actions. Plaintiff was deprived of his liberty, suffered emotional distress, mental anguish, fear, anxiety, embarrassment,

and humiliation. Further, plaintiff experienced pain, numbness, and bruising from the excessively tight handcuffs.

FIRST CLAIM
(FALSE ARREST)

19. Plaintiff repeats the foregoing allegations.

20. No officer observed plaintiff commit a crime on October 10, 2009.

21. At no time on October 10, 2009 did plaintiff commit a crime.

22. Accordingly, defendants violated the Fourth Amendments and state law because they arrested plaintiff without probable cause.

SECOND CLAIM
(UNREASONABLE FORCE)

23. Plaintiff repeats the foregoing allegation.

24. In the course of arresting plaintiff , defendants struck plaintiff about the head and body causing plaintiff pain and discomfort.

25. This use of force was objectively unreasonable.

26. Accordingly, defendants violated the Forth Amendment because they used unreasonable force on plaintiff.

THIRD CLAIM
(FABRICATION OF EVIDENCE)

27. Plaintiff repeats the foregoing allegations.

28. Defendants, pursuant to a conspiracy, falsely stated to the New York County District Attorney's Office that plaintiff had committed a crime.

29. Accordingly, defendants violated the Sixth Amendment for fabricating evidence against him and denying him a fair trial.

FOURTH CLAIM
(MONELL CLAIM)

30. Plaintiff repeats the foregoing allegations.

31. The City of New York, through a policy, practice and custom, directly cause the constitutional violations suffered by plaintiff.

32. Upon information and belief, the City of New York, at all relevant times, was aware that the defendants are unfit officers who have previously committed the acts alleged herein and/or have a propensity for unconstitutional conduct.

FIFTH CLAIM
(PLAINTIFF'S STATE LAW CLAIMS
AGAINST OFFICERS LUMIS, LITTLE AND
DOES)

33. Plaintiff repeats and realleges the allegations contained in ¶¶ 1-26 as if fully set forth herein.

34, The conduct of defendants Wilfredo Cruz and Jane Doe, as described herein, amounted to false arrest, assault and battery in violation of New York state law.

SIXTH CLAIM
(PLAINTIFF'S STATE LAW CLAIMS
AGAINST THE CITY OF NEW YORK)

35. Plaintiff repeats and realleges the allegations contained in ¶¶ 1-28 as if fully set forth herein.

36. Because Wilfredo Cruz and Jane Doe were acting within the scope of their employment as members of the NYPD during the incidents in question, the City of New York is vicariously liable under state law for false arrest, assault and battery,

37. Further, for the reasons stated in ¶ 25, the City of New York is liable under state law because it negligently hired, trained, supervised, and retained the individual defendants.

38. Nevertheless, the City of New York exercised deliberate indifference by failing to take remedial action. The City failed to properly train, retrain, supervise, discipline, and monitor the defendants and improperly retained and utilized them. Moreover, upon information and belief, the City of New York failed to adequately investigate prior complaints filed against the defendants.

39. In addition, the following are City policies, practices and customs:
(a) arresting innocent individuals, primarily minorities, on the pretext that they trespassed, possessed or sold drugs, or possessed weapons, in order to meet productivity goals;
(b) fabricating evidence against individuals;
(c) using excessive force on individuals;
(d) unlawfully strip searching pre-arraignment detainees.

WHEREFORE, plaintiff demands a jury trial and the following relief jointly and severally against the defendants:

a. Compensatory damages in an amount to be determined by a jury;

b. Punitive damages in an amount to be determined by a jury;

c. Costs, interest and attorney's fees;

d. Such other and further relief as the Court may deem just and proper.

DATED: April 14, 2010
New York, New York

________/s/_________________________

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